

**HOUSE JOURNAL**  
**of the**  
**FIRST EXTRAORDINARY SESSION**  
**of the**  
**ONE HUNDRED FIRST GENERAL ASSEMBLY**  
**of the**  
**STATE OF TENNESSEE**  
**MONDAY, MARCH 29, 1999**  
**FIRST LEGISLATIVE DAY**

The Speaker invited the members into the Chamber and instructed the Sergeants at Arms to close the doors.

**READING THE PROCLAMATION**

The Speaker directed the Clerk to read the Proclamation of the Governor convening the General Assembly in Extraordinary Session: which is as follows:

**PROCLAMATION BY THE GOVERNOR**

**WHEREAS**, the citizens of Tennessee deserve and expect certain necessary services from their state and local governments; and

**WHEREAS**, the delivery of these services to the citizens of Tennessee depends upon stable and predicable sources of revenue; and

**WHEREAS**, for over sixty (60) years a major source of Tennessee's revenues has been franchise and excise taxes upon corporations; and

**WHEREAS**, since the enactment of franchise and excise taxes, Tennessee's economy has become more diverse, and service companies, many of which pay little or no franchise and excise taxes, have become a major component; and

**WHEREAS**, although Tennessee manages its fiscal affairs in a conservative and prudent manner, its sources of revenue have not kept pace with the costs of providing essential and necessary services because of the aforementioned current composition of Tennessee's economy and the legal manipulation of Tennessee's business tax structure, particularly franchise and excise taxes; and

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**WHEREAS**, the elected representatives of the people, executive and legislative, recognize that it is imperative that Tennessee find a solution to its revenue problems; and

**WHEREAS**, Tennessee's political leadership has struggled for years to find a way to remove sales tax from food; and

**WHEREAS**, the introduction of the Fair Business Tax legislation, has initiated a debate about how to solve the problem of Tennessee's lack of revenue, while removing the sales tax from food; and

**WHEREAS**, as this debate goes forward it is wise and prudent to consider all possible options, so that a fair and broad-based tax structure can be implemented; and

**WHEREAS**, it is recognized and generally agreed that the best and most efficient means of addressing this important consideration of Tennessee's tax structure is through an extraordinary session called pursuant to Article III, Section 9, of the Constitution of the State of Tennessee;

**NOW, THEREFORE**, I, Don Sundquist, Governor of Tennessee, by virtue of the power and authority vested in me by Article III, Section 9, of the Constitution of the State of Tennessee, do hereby call the One Hundred First General Assembly of the State of Tennessee to meet and convene in Extraordinary Session at the Capitol in Nashville at five o'clock (5:00 p.m.) central standard time on Monday, March 29, 1999, for the purpose of:

- (1) Considering and acting upon legislation, either independent or amendatory, as the General Assembly may deem necessary, revising, amending or adding to Tennessee's laws pertaining to taxes and fees and/or repealing portions thereof, including, but not limited to:
  - (a) the matters related to taxation addressed in "The Tax Relief and Fairness Act", House Bill No. 1683, Senate Bill No. 1742, as introduced in the First Regular Session of the One Hundred First General Assembly,
  - (b) the taxation of businesses operating in Tennessee,
  - (c) the amendment or repeal of existing taxes,
  - (d) the enactment of statutory provisions to prevent tax avoidance and abuse,
  - (e) the revision of the sales tax on food,
  - (f) the revision of the current method of distributing tax receipts between state and county or municipal governments or creating a new system for such distributions,
  - (g) the earmarking and/or allocation of state tax revenues,

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- (h) the revision of schedules of fees which are assessed against certain individuals and/or organizations or entities,
  - (i) the enactment of any new law or revision of existing law necessary to implement any act concerning taxes and fees adopted by the General Assembly pursuant to this call;
- (2) the consideration of taxes that maximize individual and business tax deductions for federal income tax purposes;
  - (3) Considering and acting upon legislation, either independent or amendatory, as the General Assembly may deem necessary, revising, amending, repealing or adding to Tennessee's laws regarding limited liability corporations, limited liability partnerships, limited partnerships and general partnerships and/or the taxation thereof and any fee schedules related thereto,
  - (4) Considering and acting upon legislation, either independent or amendatory, as the General Assembly may deem necessary, repealing, revising, amending or adding to Tennessee's laws regarding the funding of state debt and covenants for the protection of persons who hold outstanding and unpaid bonds on obligations of this state.
  - (5) Considering and acting upon legislation to make appropriations sufficient to pay the expenses of the Extraordinary Session of the General Assembly, including the expenses of carrying out any actions taken pursuant to this call;
  - (6) Considering and acting upon a resolution to invite the Governor to address the Senate and House of Representatives, meeting in joint convention, on the reasons why an Extraordinary Session of the General Assembly has been called; and
  - (7) Considering and acting upon a resolution, as provided for in Article II, Section 8, of the Tennessee Constitution, at the General Assembly's discretion, setting a date and time for the reconvening of the First Regular Session of the One Hundred First General Assembly.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND  
AND CAUSED THE GREAT SEAL OF THE STATE OF  
TENNESSEE TO BE AFFIXED THIS 29<sup>th</sup> DAY OF MARCH, 1999.

/s/ Don Sundquist, Governor

Riley C. Darnell  
Secretary of State

The Governor, having issued his proclamation convening the One Hundred First General Assembly in Extraordinary Session, the House met at 5:00 p.m. and was called to order by Mr. Speaker Naifeh.

The proceedings were opened with prayer by Representative Wood.

Representative Wood led the House in the Pledge of Allegiance to the Flag.

### **ROLL CALL**

The roll call was taken with the following results:

Present.....95

Representatives present were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Chumney, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Cocke), Davis (Washington), DeBerry J., DeBerry L., Eckles, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Gunnels, Hagood, Hargett, Hargrove, Harwell, Hassell, Head, Hood, Jones S., Jones U., Kent, Kernell, Kerr, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Robinson, Sands, Sargent, Scroggs, Sharp, Stulce, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Walker, Walley, West, Westmoreland, White, Whitson, Williams, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 95.

### **EXCUSED**

The Speaker announced that the following member(s) has/have been excused, pursuant to request(s) under **Rule No. 20**:

Representative Dunn; personal reasons.

Representative Jackson; personal reasons.

Representative McAfee; illness.

Representative Odom; personal reasons.

### **ADOPTION OF TEMPORARY RULES**

Rep. Hargrove moved that the current rules of order for the Regular Session of the House of Representatives of the General Assembly be made the temporary rules and appointments of the Extraordinary Session; the motion, seconded by Rep. McDaniel, prevailed.

**RULES SUSPENDED**

Rep. Hargrove, seconded by Rep. Mc moved that the following rules be suspended for the duration of Extraordinary Session;

**RULE NO. 44 (b):** The prefile rule which states that bills must be prefiled by 4:00 p.m. in order to be introduced and passed the following day.

**RULE NO. 49:** The 48-hour rule so that all bills moved from Calendar and Rules can be set on the next floor Calendar;

**RULE NO. 59:** Notice provisions so that all bills from the Senate with messages could be announced and automatically placed on the next Message Calendar;

**RULE NO. 75:** Meeting time provision so that session could meet hours other than 9:00 a.m. to 12 noon and 2:00 p.m. to 7:00 p.m.;

**RULE NO. 80(1):** So that all bills reported out of subcommittee can be heard on the next full committee calendar without waiting a week;

**RULE NO. 80(1):** So that all bills reported out of committee can be heard in the next committee or sub committee without waiting a week.

**RULE NO. 80(1):** So that bills may be considered by a standing committee immediately upon passage on second consideration without waiting a week.

**RULE NO. 77:** For bills filed after the tenth legislative day, requiring them to go before the delayed bills committee. This should be changed to the 5th Legislative day for purposes of the Extraordinary Session.

Rep. Hargrove moved that the rule suspensions be adopted, which motion prevailed

A motion to reconsider was tabled.

**APPOINTMENT OF SELECT COMMITTEE**

Representative Hargrove moved that a committee be appointed by the Speaker to notify the Governor that the House of Representatives is ready for the transaction of business, which motion prevailed.

The Speaker appointed the following committee to notify the Governor: Representatives Briley, McCord, Montgomery, Hagood, and Todd. Representative Briley served as chair.

**APPOINTMENT OF SELECT COMMITTEE**

Representative Hargrove moved that a committee be appointed by the Speaker to notify the Senate that the House of Representatives is ready for the transaction of business, which motion prevailed.

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The Speaker appointed the following committee to notify the Senate: Representatives Davis (Washington), Black, Buttry, Baird, and Bunch. Representative Davis (Wash) served as chair.

**RECESS**

The Speaker called a brief recess while these committees retired.

**RECESS EXPIRED**

The recess having expired, the Speaker called the House to order. Rep. Hargrove moved that the roll call be dispensed with, which motion prevailed.

**REPORT OF SELECT COMMITTEE**

Speaker Naifeh recognized Representative Briley, who reported that the Select Committee to notify the Governor had completed its business. The Committee report was accepted.

**REPORT OF SELECT COMMITTEE**

Speaker Naifeh recognized Representative Davis (Washington), who reported that the Select Committee to notify the Senate had completed its business. The Committee report was accepted.

**MESSAGE FROM THE SENATE**

**March 29, 1999**

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 2 and 21; all adopted for concurrence.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

**Senate Joint Resolution No. 2** -- General Assembly, Joint Conventions - Calls joint convention to hear address by Governor Don Sundquist, March 29, 1999, 5:45 p.m. (CST). by \*Atchley.

**Senate Joint Resolution No. 21** -- Memorials, Death - Carol Lynn Yellin. by \*Cohen.

## RULES SUSPENDED

Rep. Hargrove moved that the rules be suspended for the immediate consideration of **Senate Joint Resolution No. 2**; the motion, seconded by Rep. McDaniel, prevailed.

**Senate Joint Resolution No. 2** -- General Assembly, Joint Conventions - Calls joint convention to hear address by Governor Don Sundquist, March 29, 1999, 5:45 p.m. (CST). by \*Atchley.

On motion, the rules were suspended for the immediate concurrence in the resolution.

On motion of Rep. Hargrove, the resolution was concurred in.

A motion to reconsider was tabled.

## RESOLUTIONS

Pursuant to **Rule No. 17**, the following resolution(s) was/were introduced and placed on the Consent Calendar for March 30, 1999:

**House Resolution No. 1** -- Memorials, Recognition and Thanks - Alpha Kappa Alpha Sorority, Inc. by \*Brown, \*Langster, \*Cooper B.

**House Resolution No. 2** -- Memorials, Retirement - Aspasia Bishara. by \*Mumpower.

**House Joint Resolution No. 1** -- Memorials, Personal Achievement - Christopher Yett, Eagle Scout. by \*Montgomery.

**House Joint Resolution No. 2** -- Memorials, Personal Achievement - Steven Ratcliff, Eagle Scout. by \*Montgomery.

**House Joint Resolution No. 3** -- Memorials, Personal Achievement - Nathaniel Grizzel, Eagle Scout. by \*Montgomery.

**House Joint Resolution No. 4** -- Memorials, Death - Paul Spradlin "Trey" Keyser III. by \*Davis (Washington), \*Patton.

## SENATE JOINT RESOLUTIONS (Congratulatory and Memorializing)

Pursuant to **Rule No. 17**, the resolution(s) listed was/were noted as being placed on the Consent Calendar for March 30, 1999:

**Senate Joint Resolution No. 21** -- Memorials, Death - Carol Lynn Yellin. by \*Cohen.

## INTRODUCTION OF BILLS

On motion, the following bills were introduced and passed first consideration:

**\*House Bill No. 1** -- Taxes - Enacts "The Tax Reform Act of 1999." Amends TCA Titles 9, 45, 56, and 67, by \*McDaniel, \*DeBerry L., \*Langster, \*Boyer, \*Newton, \*Cole (Carter). (SB01 by \*Henry, \*Atchley, \*Elsea, \*Cooper, \*Dixon)

**\*House Bill No. 2** -- Taxes - Establishes review and sunset program for certain tax exemptions that result in revenue losses of \$1 million or more. Amends TCA Title 67, by \*Kisber, \*Cole (Dyer), \*Head. (SB14 by \*Cooper, \*Kurita)

## SPONSORS ADDED

Under **Rule No. 43**, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

**House Bill No. 1:** Rep(s). Cole (Carter) as prime sponsor(s).

## ROLL CALL

The roll call was taken with the following results:

Present.....94

Representatives present were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Chumney, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Cocke), Davis (Washington), DeBerry J., DeBerry L., Eckles, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Gunnels, Hagood, Hargett, Hargrove, Harwell, Hassell, Head, Hood, Jones S., Jones U., Kent, Kernell, Kerr, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Patton, Phelan, Phillips, Pinion, Pleasant, Rhinehart, Ridgeway, Rinks, Roach, Robinson, Sands, Sargent, Scroggs, Sharp, Stulce, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Walker, Walley, West, Westmoreland, White, Whitson, Williams, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 94.

## RECESS MOTION

Rep. Hargrove moved that, pursuant to Senate Joint Resolution No. 2, the House stand in a brief recess prior to joining the Senate in Joint Convention for the purpose of hearing the Governor speak, at the conclusion of which the House would stand in recess until 9:00 a.m. on Tuesday, March 30, 1999.



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**IN JOINT CONVENTION**

The hour having arrived, set by Senate Joint Resolution No. 2, the Senate met with the House in Joint Convention for the purpose of hearing a speech by the Governor on the reason for calling the Extraordinary Session.

The Joint Convention was called to order by Mr. Speaker Wilder, President of the Joint Convention.

On motion of Senator Crutchfield, the Senate dispensed with Senate Roll Call.

On motion of Representative Hargrove, the House dispensed with the House Roll Call.

The Chief Clerk of the Senate read the Joint Resolution authorizing the Joint Convention.

Representative Hargrove moved that the President appoint a Committee composed of six (6) members from the Senate and six (6) members from the House to notify the Governor that the Joint Convention is in session and awaiting his arrival, which motion prevailed.

Mr. President Wilder appointed Senators Cohen, Crowe, Dixon, Ford, Person, and Williams; and Representatives Boyer, Lois DeBerry, Hargrove, Kisber, McDaniel, and Rinks to escort the Governor. Senator Person served as Chairperson of this Committee.

Without objection, the Joint Convention recessed pending the arrival of the Honorable Don Sundquist.

The Joint Convention was called to order by Mr. President Wilder.

Without objection, the roll calls of the Senate and House were dispensed with.

Senator Person announced that the Honorable Don Sundquist was ready to be escorted to the podium.

Mr. President Wilder asked the Committee to Escort the Honorable Don Sundquist to please come forward.

Mr. President Wilder introduced the Honorable Don Sundquist.

ADDRESS TO JOINT CONVENTION OF SPECIAL SESSION

GOVERNOR DON SUNDQUIST

*Governor Wilder,  
Speaker Naifeh,  
Members of the General Assembly,  
Assembled guests,  
My fellow Tennesseans...*

I have asked this General Assembly to convene in special session for the purpose of deciding the fundamentally important issue of tax relief, fairness, and reform.

In so doing, I have structured the call for this special session in consultation with the bipartisan leadership of the General Assembly, in order to provide you with the widest possible discretion in the issue before us. At the same time, the call narrowly defines what that issue is: tax reform and any other matter related to taxation that this General Assembly chooses to consider.

In the weeks that have passed since I presented our first tax reform proposal, I believe most Tennesseans have come to accept the premise of our proposal. Our tax system is not fair, does not work, and is ill suited to the present-day economy. It imposes taxes on some kinds of businesses, but exempts many others. It has loopholes that make tax avoidance easy. It captures only a fraction of the business tax revenue we ought to be collecting; given the record amount of economic growth our state has experienced over the last four years.

Our task is to reform that system so that it applies broadly and fairly to every kind of business, that provides a stable and elastic source of revenue, that lessens our dependency on sales taxes, and that reflects the realities of the 21<sup>st</sup> century economy.

Tax reform is not an issue we can postpone to another day. It demands action now. According to the State Funding Board, we face a budget shortfall of more than \$400 million in the coming fiscal year. It is a shortfall we cannot close without difficult and damaging cuts to programs Tennesseans want and expect us to provide.

- Rather than modest improvements for our colleges and universities, we would have to cut \$50 million to \$60 million from higher education;
- We would have to reduce spending for K-12 schools;
- The pilot program for long term care, so important to our older citizens, could not be funded;
- All capital projects in the current budget would have to be canceled;
- Pay raises for school teachers and state employees would be out of the question;
- In fact, more than 1,000 state employees would have to be laid off.

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These are only a few of the cuts that would have to be made this year. Next year, with further decline in our revenue, we would have to cut even more.

This General Assembly has worked with our administration through five budget cycles. You know as well as I that we operate a conservative and fiscally sound government. We have more than cut in half the rate of growth in government spending. We are 45<sup>th</sup> in the nation in per capita spending. We have the lowest per capita taxes in America. No informed observer of state government would suggest that we have a spending problem.

What we have is a revenue problem, specifically, a *business tax revenue* problem. And solving it requires structural reform, not just a quick fix to meet this year's budget.

The facts speak for themselves. We have enjoyed four consecutive record years of business investment, job creation and economic expansion. Yet our business tax collections are falling. Within a year, they will be below where they were when I took office, as though the economic upswing of the 1990's had left no mark on Tennessee's business revenue.

Our business taxes are full of loopholes. They apply to some kinds of business, but exempt many others, including much of the largest and fastest growing segment of our economy -- services.

In the weeks since I first raised this issue, we have taken to heart the legitimate concerns of the business community and the suggestions members of the General Assembly have made. The legislation I offer you this evening has been modified accordingly.

You told us we should keep our system of franchise and excise taxes, but find ways to close loopholes and to extend these taxes to every kind of company -- not just corporations, but LLCs, partnerships, sole proprietorships and others.

You told us to repeal the sales tax on groceries, but to raise the money to pay for it from businesses that aren't paying their fair share, not from companies that are.

You told us that your city and county governments wanted the right to keep their local option sales tax as is.

You told us to make sure that our changes in business tax formulas do not hurt Tennessee's competitive position for new and expanding business.

Our legislation meets each of these tests.

We retain the franchise and excise taxes, modified to close loopholes and to extend their reach to every kind of company, regardless how it is organized. We do that by counting as profit any compensation paid to an employee in excess of \$72,000. This is an important change. It will have only minimal effect on companies that currently pay franchise and excise taxes, but it allows us to collect a tax from companies and partnerships that currently shift all their profit into payroll and thereby escape liability for excise taxes. It is a way to assure that everyone pays his or her fair share.

We also propose to cut in half the franchise tax rate, from .0025 to .00125, but to expand the franchise tax base to include gross receipts. This change helps us achieve a business tax

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structure that reflects today's economic activity rather than that of the heyday of the Industrial Age.

We propose a sales and use tax on architectural and engineering services.

With these changes, we can essentially preserve the franchise and excise taxes Tennessee businesses are accustomed to paying, and in so doing, minimize the impact on companies that have been paying taxes all along. In fact, most of the *additional* business tax revenue generated by our proposal will come from companies that are not currently paying and from the closing of loopholes.

I know, from our conversations, that many in the General Assembly have ideas about how to modify or refine this proposal. I welcome your thorough scrutiny of what we have offered and am willing to work with you to improve it. The call is written broadly enough to give you the flexibility to consider many options.

One item, however, is non-negotiable. We must repeal the state sales tax on grocery food, and we must do so this year. I have accepted the argument made by our city and county governments – and by many of you – that we should leave the local option in place. Our legislation so provides. But the state's portion of the grocery tax must be repealed as a matter of fairness and reform.

Ladies and gentlemen of the General Assembly, I ask you to approach these difficult issues as I have, with an eye on the long-term well being of our state and the long-term financial stability of state government.

Doing nothing is not an option.

We were elected to make difficult decisions, and I believe we will be judged harshly if we don't.

These are difficult issues, and I know better than to imagine that I have the perfect solution. But I can echo the little boy whose letter is included in the book, "Letters to God":

*"Dear God, I'm doing the best that I can."*

Thank you and good night.

Mr. President Wilder relinquished the gavel to Mr. Speaker Naifeh.

Mr. President Naifeh declared the purpose of the Joint Convention accomplished, thus the Joint Convention was dissolved.